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December 17, 2004

BY HAND DELIVERY

Mr. Lawrence H. Norton
Office of the General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

Re: MUR 5461

Dear Mr. Norton:

On behalf of John Kerry for President, Inc. ("JKFP") and Robert Farmer, as Treasurer (collectively, "Respondent"), this letter is submitted in response to the complaint filed by Markham Shaw Pyle ("the Complaint") and subsequently labeled MUR no. 5461. The Complaint should be immediately dismissed.

The Commission may find "reason to believe" only if a complaint sets forth sufficient specific facts, which, if proven true, would constitute a violation. *See* 11 C.F.R. §§ 111.4(a), (d) (2004). Unwarranted legal conclusions from asserted facts or mere speculation will not be accepted as true, and provide no independent basis for investigation. *See* Commissioners Mason, Sandstrom, Smith and Thomas, Statement of Reasons, MUR 4960 (Dec. 21, 2001).

Based on the web pages cited in the Complaint, it appears that Fan the Vote is an on-line community whose participants share an interest in the literary genre known as "slash fiction," as well as an interest in opposing President George W. Bush. During the primary, one of its members named "idlerat" allegedly called the fundraising office of JKFP and explained that some of its members planned to volunteer to write slash fiction as a way to encourage other members to contribute to JKFP. According to idlerat's message on the Fan the Vote messageboard:

"I did, in fact, consult FEC regulations (including calling them for clarification), as well as the fundraising department of John Kerry for President, in setting up this comm. As you can see, the link to the FEC website

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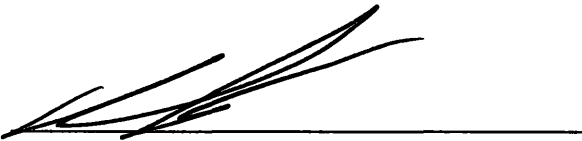
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has always been on the userinfo page. Obviously, the person I spoke to at the Kerry campaign was no more interested in discussing the details of what people were being sponsored to do than I was in explaining them to her (how much do you like talking slash to mundanes under any circumstances), but the general form of the fundraiser raised no objections from her. As I believe I told her before, she said, 'thank you for doing this.' And she meant, all of us."

See www.livejournal.com/community/fan_the_vote/35998.html. Although JKFP has no record of this conversation taking place, there is nothing illegal about a conversation in which a supporter explains to a Kerry fundraiser that individuals intend to volunteer to write slash fiction as a means of encouraging individuals to contribute to JKFP. JKFP had no more involvement in the content of Fan the Vote's website than did the FEC official with whom idlerat allegedly consulted for clarification. Because the Complaint relies entirely on conclusory allegations, it should be dismissed.

Very truly yours,

A handwritten signature in black ink, appearing to read "Marc E. Elias", written over a horizontal line.

Marc E. Elias
Counsel to John Kerry for President, Inc. and
Robert Farmer, as Treasurer

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